

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Marion Telephone, LLC

Petition for Arbitration of Certain
Terms And Conditions of Proposed
Agreement With Verizon North Inc.
(f/k/a GTE North Incorporated) and
Verizon South Inc.(f/k/a GTE South
Incorporated) Concerning
Interconnection Under the
Telecommunications Act of 1996

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DOCKET NO. 06-0688

DIRECT TESTIMONY OF THOMAS ZIEGLER
ON BEHALF OF
Verizon North Inc.
and Verizon South Inc.

EXHIBIT 1.0

OFFICIAL FILE

DATED: February 15, 2007

ILL. C. C. DOCKET NO. 06-0688

Verizon Exhibit No. 1.0

Witness _____

Date 3/21/07 Reporter CB

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1 **INTRODUCTION**

2 **Q. Please state your name, your employer, your business address and on**
3 **whose behalf you are offering this testimony.**

4 A. My name is Thomas Ziegler. I am employed by Verizon Corporate Services
5 Group as a senior staff consultant in the property risk management group of the
6 finance department. My business address is One Verizon Way, Basking Ridge,
7 New Jersey 07920. I am providing testimony in this proceeding on behalf of
8 Verizon North, Inc. and Verizon South, Inc. (collectively "Verizon").

9 **Q. Briefly state your educational background.**

10 A. I received a bachelor of science degree in business, and a bachelor of business
11 arts and an associates degree in marketing from Tampa College. I have
12 completed training and received certification to be a Hazard Control Manager, an
13 Associate Risk Manager, and a Utility Safety Administrator.
14

15 **Q. Please state your previous work experience in the area of**
16 **telecommunications.**

17
18 A. I began working for one of Verizon's predecessor companies in 1972 as a
19 telephone installer. During my tenure, I have held various management positions
20 at Verizon and its predecessor companies, including Technical and Management
21 Training Instructor, Labor Relations Analyst, Worker's Compensation Analyst,
22 and Safety Manager. I have been assigned various Risk Management Loss
23 Prevention and Claims Management positions since 1993.
24

25 **PURPOSE OF TESTIMONY**

26 **Q. What is the purpose of your testimony?**

27 A. The purpose of this testimony is to address how long Marion Telephone LLC
28 ("Marion") should be required to maintain insurance after the interconnection
29 agreement ("ICA") between Marion and Verizon expires (Issue 4), and the levels
30 of coverage that Marion's insurance policy(ies) should be required to reflect
31 (Issue 5). I will demonstrate that it is reasonable and appropriate to require
32 Marion to maintain insurance coverage for a period of two years following the
33 termination of the ICA, and that the levels of insurance coverage (\$2 million and
34 \$10 million) are reasonable and consistent with industry standards.

35
36 **DISCUSSION**

37 **ISSUE 4**

38
39 **Q. Do Marion and Verizon agree on the manner in which Issue 4 should be**
40 **framed?**

41
42 A. No. Marion believes that the issue should be stated as follows:

43 Under Section 21, entitled "Insurance," should Verizon be able to
44 require Marion Telephone to maintain for a period of two years after
45 the term of the agreement all insurance and/or bonds required to
46 satisfy its obligations under the Agreement and all insurance and/or
47 bonds required by Applicable Law?

48
49 Verizon, on the other hand, believes the issue is more properly stated as follows:

50 Should Marion be entitled, upon termination of the Agreement (or
51 six months thereafter), to terminate insurance coverage for
52 liabilities that arise out of acts, events or occurrences during the
53 term of the agreement?

54
55 **Q. Why is Verizon's statement of the issue more appropriate?**
56

57 ~~A. Because I believe that it more accurately depicts the risks that Verizon's~~
58 proposed ICA language is designed to address.

59
60 **Q. Why is it reasonable and appropriate to require Marion to maintain**
61 **insurance for a two year period after the expiration of the ICA?**
62

63 A. First, Verizon understands that Marion proposes that Section 21.1 of the General
64 Terms and Conditions (page 12 of the redlined version of the ICA filed with the
65 Petition) be modified by replacing the words "two years" with "six months." Thus,
66 as I understand it, the Administrative Law Judge ("ALJ") and the Illinois
67 Commerce Commission ("Commission") are being asked to decide which term --
68 "two years" or "six months" -- should be incorporated into the ICA. I believe that
69 the ALJ and the Commission should reject Marion's proposed change to Section
70 21.1.
71

72 Second, the ALJ and the Commission should require Verizon's language to be
73 incorporated into the ICA because it is consistent with standard practice both
74 within the telecommunications industry and elsewhere. Just as insurance is
75 necessary to ensure Marion's financial responsibility to Verizon during the term of
76 the agreement, it is likewise necessary to retain coverage for a reasonable period
77 thereafter. It is common for liabilities to remain unknown, and indeed for
78 coverage events not to occur, until some time after the act that set in motion the
79 events that give rise to such liability. For example, if a technician damages an

80 electrical wire, it might take a year or more for that damaged wire to cause a fire
81 or some other catastrophic loss. For this reason, I believe that it is reasonable

82 for Marion to retain coverage for two years after termination of the agreement.

83 **Q. Do Verizon's ICAs in Illinois contain a requirement that carriers retain**
84 **coverage for two years after termination of the agreements?**

85
86 **A.** As a general matter, yes. The vast majority of Verizon's Illinois ICAs with wireline
87 Competitive Local Exchange Carriers ("CLECs") like Marion require the CLECs
88 to retain insurance for a minimum of two years. While there are a small number
89 of ICAs with wireline carriers in Illinois that do not require the two year minimum,
90 those are non-standard and generally of an older vintage.

91 **Q. Is there anything else that the ALJ and the Commission consider when**
92 **ruling on the time frame for appropriate insurance coverage?**

93
94 **A.** Yes. Marion's equipment that remains on Verizon's premises after the term of
95 the ICA will have to be removed at some point in time. While on Verizon's
96 premises, and during the removal process, this Marion-owned equipment puts
97 Verizon's network, personnel and assets at an increased risk for damage in
98 many ways: (i) the risk of injury to its employees, (ii) the risk of damage or loss of
99 its facilities and network, (iii) the risk of fire or theft, (iv) the risk of security
100 breaches, and (v) possible interference with, or failure of, the network. The
101 insurance requirement for a period of up to two years after the termination date of
102 the ICA is reasonable and would afford Verizon protection for these discontinued
103 operations of Marion while the equipment remains in place at the Verizon facility
104 and during the period of equipment removal. It is Verizon's experience that other

105 CLEC's have taken up to two years to remove their equipment in other
106 jurisdictions. It is reasonable to believe that the removal of discontinued
107 operations equipment could take up to two years in Illinois as well.

108 **Q. Is there any other reason a CLEC's equipment remains a risk and exposes**
109 **Verizon's network, facilities and personnel to potential harm after**
110 **termination of an ICA?**

111
112 **A.** Yes. In the case of a CLEC that files for bankruptcy or may otherwise go out of
113 business, it is not unusual for appropriate legal proceedings to extend longer
114 than six months from the termination date of services in order to clear the way for
115 removal of the abandoned equipment and remove the risk that it presents to the
116 Verizon facility, network and personnel.

117

118 **ISSUE 5**
119

120 **Q. Do Marion and Verizon agree on the manner in which Issue 5 should be**
121 **framed?**

122

123 **A.** No. Marion believes that the issue should be stated as follows:

124 Under Section 21, entitled "Insurance," what level of insurance
125 should Verizon be able to require Marion Telephone to maintain if it
126 never collocates in any of its facilities?
127

128 Verizon, on the other hand, believes the issue is more properly stated as follows:

129 Should Marion be exempt from some or all of the generally
130 applicable insurance requirements if it engages only in its proposed
131 "metallic interconnection" and does not engage in traditional
132 collocation?
133

134 **Q. Why is Verizon's statement of the issue more appropriate?**
135

136 A. Because I believe that it more accurately depicts the risks that Verizon's
137 proposed ICA language is designed to address.

138
139 **Q. What is your understanding of Marion's position on this issue?**

140
141 A. As an initial matter, it is my understanding that if the Commission rejects Marion's
142 position with respect to Issue 15, Marion agrees that the policy limits would no
143 longer be an issue. Thus, I believe the Commission should not reach this issue
144 unless it decides Issue 15 in Marion's favor. It is my understanding that Marion
145 believes that its proposed method of interconnection reduces the risk to Verizon's
146 network, but in my opinion there is no basis for that assumption. It may well be
147 that Marion's proposed method of interconnection would subject Verizon's
148 network to greater risks than it would face from a facilities-based CLEC that
149 interconnects with Verizon's network via traditional methods, such as through
150 physical collocation.

151
152 Consequently, even if the Commission finds in favor of Marion on issue 15, I
153 believe that it is inappropriate to reduce the levels of insurance coverage, as
154 reflected in Marion's proposed modifications to the policy limit amounts contained
155 in Sections 21.1.1, 21.1.2, 21.1.3 and 21.1.4 of the Agreement. Indeed,
156 depending upon the details of the terms and conditions of Marion's proposed
157 interconnection method, which are at best unclear, insurance policy levels may
158 need to be increased from the levels proposed by Verizon to adequately protect
159 against the risks posed by such interconnection.

Q. What liability insurance coverage should Marion be required to obtain?

A. Assuming that Marion's proposed "metallic interconnection" proposal is rejected, it is Verizon's understanding that Marion agrees that the insurance coverage Verizon proposes is appropriate. So if the Commission rejects Marion's position of Issue 15, the ALJ and Commission need not reach this issue. That said, Verizon's proposed insurance requirements are set forth in § 21 of the General Terms and Conditions section of the interconnection agreement. Marion should obtain this coverage prior to having access to Verizon's network and other assets via existing methods of interconnection, and should maintain it during the term of the interconnection agreement and, as discussed above, for two years after the expiration of the ICA. Such insurance coverage should include:

- Commercial General Liability: \$2,000,000.
- Commercial Motor Vehicle Liability Insurance: \$2,000,000.
- Excess Liability Insurance (umbrella): \$10,000,000.
- Worker's Compensation Insurance as required by law and Employer's Liability Insurance: \$2,000,000.
- All risk property insurance (full replacement cost) for Marion's real and personal property located at a collocation site or on Verizon premises, facility, equipment or right-of-way.

In addition,

- Deductibles, self-insured retentions or loss limits must be disclosed to Verizon.
- Marion shall name Verizon as an addition insured.
- Marion shall provide proof of insurance and report changes in insurance periodically.
- Marion shall require contractors that will have access to Verizon premises or equipment to procure insurance.

Q. Why is the liability insurance coverage you describe necessary?

A. Verizon is required to enter interconnection agreements with CLECs. The

192 presence of Marion's equipment and personnel on Verizon's property that results
193 from interconnection — particularly collocation — puts Verizon's network,

194 personnel, and assets at an increased risk for damage and injury in many ways:
195 (i) the risk of injury to its employees, (ii) the risk of damage or loss of its facilities
196 and network, (iii) the risk of fire or theft, (iv) the risk of security breaches, and (v)
197 possible interference with, or failure of, the network. In light of interconnection
198 requirements and associated increased risk, it is reasonable for Verizon to seek
199 protection of its network, personnel, and other assets. In § 20 of the General
200 Terms and Conditions section, Marion agrees to indemnify Verizon for any
201 damage Marion causes as a result of its gross negligence or intentionally
202 wrongful acts. Verizon's proposed insurance requirements in § 21 provide the
203 financial guarantee to support the promised indemnification. Verizon's recent
204 experience with CLEC bankruptcies reveals that insurance coverage is often the
205 only source of recovery.

206 **Q. Is Verizon's proposal consistent with obligations of other carriers?**

207
208 **A.** Yes. Verizon's proposed insurance requirements here are identical to Verizon's
209 insurance policy requirements in its intrastate access tariff. See Section 19.7,
210 Insurance, in the Collocation Services section of its Facilities for Intrastate
211 Access tariff.

212
213 **Q. Why aren't Marion's proposed insurance requirements reasonable?**

214
215 **A.** Marion's proposal would modify Sections 21.1.1, 21.1.2 and 21.1.4 of the
216 Agreement's General Terms and Conditions (page 13 of the redlined version of

the ICA filed with the Petition) by replacing the \$2,000,000 policy limits with
\$1,000,000 policy limits, and replacing the \$10,000,000 policy limit in Section

21.1.3 with a \$2,000,000 policy limit. Marion's proposal would provide
inadequate coverage in light of the risks for which the insurance is procured and
should therefore be rejected. General problems with Marion's proposals are
highlighted below.

§ 21.1.1 Marion advocates reducing from \$2,000,000 to \$1,000,000
Commercial General Liability Insurance. This is unreasonable because
this insurance protects Verizon in the case of loss arising out of incidents
involving Marion, its employees, or its contractors. A level of \$2,000,000 is
commercially reasonable and consistent with the insurance limits carried by other
companies.

§ 21.1.2 Marion advocates reducing from \$2,000,000 to \$1,000,000 the
Commercial Motor Vehicle Liability Insurance. Marion must provide commercial
automobile insurance to protect Verizon from damage caused to its facilities and
from bodily injury and property damage sustained by third parties as a result of
Marion's negligence use of its vehicles or those of its subcontractors in the
performance of the agreement. Excess coverage is necessary for Marion's
employees operating personal or rental vehicles relating to the performance of
the agreement. A level of \$2,000,000 is commercially reasonable and consistent
with the insurance limits carried by other companies.

§ 21.1.3 Marion advocates reducing Verizon's proposed excess liability
insurance from not less than \$10,000,000 to \$2,000,000. A policy limit of
\$2,000,000 is unreasonable in light of the amount of potential damage to
Verizon's facilities, personnel, and network that could be caused by Marion or
one of its subcontractors.

§ 21.1.4 Marion advocates reducing from \$2,000,000 to \$1,000,000
Worker's Compensation Insurance and Employer's Liability Insurance. Marion's
proposal is unreasonable because this insurance protects Verizon in the case of
loss arising out of incidents related to these insurance categories. A level of
\$2,000,000 is commercially reasonable and consistent with the insurance limits
carried by other companies.

255 **Q. Can you elaborate on why Marion's proposed reduction of the \$10,000,000**
256 **excess liability coverage requirement is unreasonable?**

257
258 A. Yes. There are two main reasons why the ALJ and the Commission should
259 reject Marion's proposal to limit excess liability coverage to just \$1,000,000.
260 First, it simply is inadequate in light of the risk to Verizon's network, personnel
261 and assets. It is not unusual for *individuals* to have more than \$1,000,000
262 coverage for liabilities associated with their residence and personal autos. My
263 understanding is that tort judgments, including costs and legal fees, in Illinois
264 routinely exceed \$1,000,000, making Marion's proposal obviously insufficient.
265 Damage to Verizon's network or assets or injury to even one Verizon employee
266 resulting from any single occurrence could easily and significantly exceed the
267 limits of Marion's proposed coverage.

268 **Q. Are Verizon's insurance and related provisions commercially reasonable**
269 **and consistent with industry standards?**

270
271 A. Yes. The Federal Communications Commission ("FCC") and state commissions
272 consistently have approved Verizon's insurance requirements.¹ As the FCC

¹ See, e.g., *NJ GNAPs Order* at 16 (recommending that "Section 21 of the General Terms and Conditions proposed by Verizon be adopted in its entirety"); Final Order on Arbitration, *Petition by Global NAPS, Inc. for Arbitration Pursuant to 47 U.S.C. § 252(b) of Interconnection Rates, Terms and Conditions With Verizon Florida, Inc.*, Docket No. 011666-TP, 2003 WL 21658341, at *28 (FL P.S.C. July 9, 2003); Opinion and Order, *Petition of Global NAPs South, Inc. for Arbitration pursuant to 47 U.S.C. § 252(b) of Interconnection Rates, Terms and Conditions with Verizon Pennsylvania Inc.*, Docket No. A-310771F7000, at 61-62 (PA P.U.C. Apr. 17, 2003) ("PA GNAPs Order"); see also Recommended Arbitration Order (approved with modifications in June 2, 2003 *Order Ruling on Objections and Requiring Filing of the Composite Agreement*), *Petition of Global NAPs North Carolina, Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish An Interconnection Agreement with Verizon South, Inc.*, Docket No. P-1141, 2002 N.C. P.U.C. LEXIS 1272, at *79-83 (N.C. P.U.C. Nov. 27, 2002) ("NC GNAPs Order"); *Virginia Arbitration Order* at ¶ 741 ("we accept Verizon's proposed coverage levels as reasonable"); Second Report and Order, *Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport*, 12 FCC Rcd 18730 ¶ 345 (1997) ("Second Report and Order") (concluding that "LECs are

273 found, "LECs are justified in requiring interconnectors to carry a reasonable
274 amount of liability insurance coverage."² Accordingly, the FCC specifically
275 approved Incumbent Local Exchange Carrier ("ILEC") insurance requirements of
276 up to \$5 million for general liability coverage, up to \$10 million for excess liability
277 coverage, up to \$2 million for employer's liability coverage, and up to \$5 million in
278 automobile liability insurance, as well as statutory levels of coverage for workers'
279 compensation insurance.³ Verizon's proposal would require insurance at or
280 below these FCC-approved levels for each type of coverage. And both the FCC
281 and state commissions have also found ILEC automobile insurance requirements
282 to be reasonable.⁴ As the New Jersey Board of Public Utilities pointed out in
283 adopting Verizon's proposed insurance requirements, "all . . . boards [except
284 one] have found the insurance requirements proposed by Verizon to be
285 reasonable and to be normal within industry standards."⁵

justified in requiring the interconnectors to carry a reasonable amount of liability insurance coverage,"
including automobile, workers' compensation and employer's liability insurance).

² *Second Report and Order* ¶ 345.

³ *Id.* ¶¶ 344-347.

⁴ *Id.* ¶ 345; Opinion, *Petition of Global NAPs, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Interconnection Agreement with Verizon New England, Inc. d/b/a Verizon Massachusetts f/k/a New England Telephone Telegraph Co. d/b/a Bell Atlantic-Massachusetts*, D.T.E. 02-45, 2002 Mass. PUC Lexis 65, at *89 (Mass. D.T.E. Dec. 12, 2002).

⁵ *NJ GNAPs Order* at 16 (recommending adoption of Verizon's insurance requirements section "in its entirety").

288 **CONCLUSION**

289 **Q. Would you please summarize your testimony?**

290 A. Yes. Verizon's position is that Marion should be required to maintain insurance
291 coverage for two years following the expiration of the Marion/Verizon ICA and
292 that Marion should be required to maintain insurance policy(ies) at levels
293 commensurate with the risks inherent to the manner in which Marion proposes to
294 interconnect with Verizon's facilities. Verizon's proposed coverage levels are
295 appropriate if Marion's "metallic interconnection" proposal is rejected. To the
296 extent that Verizon is ordered to provide metallic interconnection, it may well be
297 that the insurance levels would need to be increased to reflect the risks that
298 would exist depending upon the details of what that the type of interconnection
299 would entail -- something that is wholly unclear from Marion's petition. I therefore
300 recommend that the Commission reject Marion's proposed modifications to the
301 ICA language, and direct the parties to incorporate into the ICA Verizon's
302 proposed language.

303 **Q. Does this complete your testimony?**

304 A. Yes, it does.